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Washington, D.C. 20231

MAR 28 1994

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John F. Sweeney  
Morgan & Finnegan  
345 Park Avenue  
New York, NY 10154

In re Application of :  
M. Jutila :  
Serial No. 08/064,505 : DECISION ON PETITION  
Filed: May 19, 1993 :  
Attorney Docket No. 0174-4002 US1 :

This is a decision on the petition filed August 25, 1993, requesting that the above-identified application be accorded a filing date of May 19, 1993.

On May 19, 1993, the application was deposited. The filing included, inter alia, a declaration and a small entity statement containing reproduced signatures thereon.

On June 25, 1993, Application Division mailed a Notice stating that drawings of Figures 4, 7, 11, 12 and 15 described in the specification was required in compliance with 35 USC 111 and that the filing date of the application would be the date of receipt of the drawings. The balance of the large entity filing fees [The signature to the small entity statement was noted as being a reproduction.] was also required.

In response, on August 25, 1993, the present petition, the petition fee, an executed declaration, a surcharge, an executed small entity statement and a preliminary amendment were filed. Petitioner argues that all the figures for this application were present on filing and that the references in the specification to drawings of Figures 4, 7, 11, 12 and 15 rather than Figures 4A, 4B, 4C, 4D, 7A, 7B, 11A, 11B, 12A, 12B, 15A, 15B and 15C were the result of clerical errors. In support of the petition, the preliminary amendment conforms the drawing figures mentioned in the specification with those labeled in the drawings, as filed. Petitioner requests that the application be accorded a filing date of May 19, 1993 and the petition fee be refunded.


MPEP 608.01(f) states, in part, that an application is considered incomplete if it omits drawings which are described in the specification.

Upon review of the record, it appears that applicant erroneously referred to Figures 4, 7, 11, 12 and 15 in the brief description of the drawings when, in fact, the drawings contained no Figures 4, 7, 11, 12 and 15. The drawings actually being described were Figures 4A, 4B, 4C, 4D, 7A, 7B, 11A, 11B, 12A, 12B, 15A, 15B and 15C. The evidence is convincing that the references to Figures 4, 7, 11, 12 and 15 in the specification were clerical errors which have been corrected by the preliminary amendment.

Since it has been determined that all the drawing figures for this application were present on filing, even though the specification contained clerical errors, on petition, the application may be accorded the requested filing date. The petition fee will not be refunded since the present petition and petition fee were necessary in view of applicant's filing error.

The petition is granted.

The application is being returned to Application Division for further processing with a filing date of May 19, 1993, using the application papers filed May 19, 1993 and the declaration filed August 25, 1993, and an indication on the file wrapper that twenty (20) sheets of drawings were present on filing.

  
Fred A. Silverberg  
Special Program Examiner  
Office of the A/C for Patents

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